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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,771	02/05/2002	Charles Eldering	T742-10	7576

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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,771

Applicant(s)

ELDERING ET AL.

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 194-212 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 194-212 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/18/2005 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 194-212 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues none of the cited references discloses or suggests "at least a portion of each targeted advertisement that is fast-forward or skipped remain visible to the subscriber" (page 15, par. 3, lines 2-4).

In response, this argument is respectfully traversed. Maissel discloses during fast forward and fast backward through a commercial, a shorten version of a full commercial

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may be displayed on the television 50 (par. 0394). Thus, a portion of targeted advertisement remain visible to the subscriber is met by shorten version of commercial that is fast-forwarded being displayed on the television).

Applicant further argues the cited references does not teach or suggest the target commercial that is fast-forwarded is presented in a compressed time period (page 17, paragraph 4, lines 1-3. The examiner respectfully disagrees with this argument.

Maissel discloses presenting a shorten version of the commercial that is fast-forwarded (par. 0394). As a result, the commercial that is fast-forward is presented in a compressed time period since the time required to display shorten version of commercial is less than time required to display full version commercial.

Rejections on claims 194-212 are analyzed as discussed below.

Claims 1-193 have been cancelled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious

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at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 194-196, 198-206, 208-212 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US 6,463,585), and in view of Maissel et al. (US 2003/0088872).

Regarding claim 194, Hendricks discloses a method for delivering targeted advertisements to a subscriber with video that the subscriber selected to receive from a television delivery system (col. 3, line 48-col. 4, line 5); the method comprising: selecting the video (selecting a program carried in program channel – col. 9, lines 5-20, col. 17, lines 15-35); determining available advertisement opportunities in the selected video (e.g., determining “pods”, breaking time, etc. in the program – col. 5, lines 30-60, col. 27, lines 16-38); selecting one or more targeted advertisements desired to be displayed to the subscriber, wherein the targeted advertisements correspond to the available advertisement opportunities (selecting targeted advertisements desired to be displayed to the subscriber, wherein the targeted advertisement correspond to “pod”, break timing, feeder channel availability, user demographic and user geographic (col. 26, line 14-col. 27, line 67); delivering the selected video and the targeted advertisements to the subscriber (col. 26, line 14-col. 27, line 67);

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presenting the selected video and the targeted advertisement to the subscriber on a viewing device (displaying selected program and displaying targeted advertisement during program break – col. 15, line 60-col. 16, line 12). Hendricks further discloses presenting alternative advertisement (col. 26, lines 14-30). However, Hendricks does not specifically disclose presenting an alternative advertisement when the subscriber fast forward or skips the targeted advertisement, and wherein the alternative advertisement is presented such as at least a portion of each targeted advertisement that is fast-forwarded or skipped remains visible to the subscriber.

Maissel teaches presenting an alternative advertisement (shorten version commercial of a full commercial) when the subscriber fast-forwards the targeted advertisement (full commercial), Maissel further discloses the shorten version of full commercial that is fast-forwarded is displayed on television (par. 0394) reads on the claimed feature of “the alternative advertisement is presented such that at least a portion of each targeted advertisement that is fast-forwarded remains visible to the subscriber. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks to use the teaching as taught by Maissel in order to prevent user to avoid watching advertisement thereby improve efficiency in advertising.

Regarding claim 195, Maissel further discloses the shorten version of full commercials is displayed during the full commercial is fast-forwarded (par. 0394) reads on the

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claimed feature "presentation of the alternative advertisement occurs during presentation of the targeted advertisement."

Regarding claim 196, Maissel further discloses the targeted advertisement is presented in a compressed manner (shorten version commercial) during presentation of the targeted advertisement (full commercial – par. 0394).

Regarding claim 198, Maissel further discloses the alternative advertisement is a shorten version of the target advertisement (par. 0394).

Regarding claim 199, Maissel further discloses selection of the target advertisement (commercial) is based on a subscriber profile (par. 0396).

Regarding claim 200, Maissel further discloses the subscriber profile defines trails associated with the subscriber, household demographics, traits associated with the selected video, or trails associated with previous selected videos (par. 0057, par. 228, par. 0264,

Regarding claim 201, Maissel discloses alternative commercial is a shorten version of a full commercial (par. 0394). broadly reads on the claimed feature of "the alternative advertisement is not directly related to the targeted advertisement.

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Regarding claim 202, Maissel discloses the alternative advertisement (shorten version of full commercial) is derived from the targeted advertisement (full commercial – par. 0394).

Regarding claims 203, Hendricks discloses a method for delivering targeted advertisements to a subscriber with video that the subscriber selected to receive from a television delivery system (col. 3, line 48-col. 4, line 5), the method comprising: selecting the video (selecting a program carried in program channel – col. 9, lines 5-20, col. 17, lines 15-35);

determining available advertisement opportunities in the selected video (e.g, determining “pods”, breaking time, etc. in the program – col. 5, lines 30-60, col. 27, lines 16-38);

selecting one or more targeted advertisements desired to be displayed to the subscriber, wherein the targeted advertisements correspond to the available advertisement opportunities (selecting targeted advertisements desired to be displayed to the subscriber, wherein the targeted advertisement correspond to “pod”, break timing, feeder channel availability, user demographic and user geographic (col. 26, line 14-col. 27, line 67);

delivering the selected video and the targeted advertisements to the subscriber (col. 26, line 14-col. 27, line 67);

presenting the selected video and the targeted advertisement to the subscriber on a viewing device (displaying selected program and displaying targeted advertisement

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during program break – col. 15, line 60-col. 16, line 12). Hendricks further discloses presenting alternative advertisement (col. 26, lines 14-30). However, Hendricks does not specifically disclose when the subscriber fast forwards or skips one or more of the targeted advertisement, each targeted advertisement that is fast-forwarded or skipped is presented in a compressed time period.

Maissel teaches when the subscriber fast forwards the full commercial, the commercial that is fast forwarded is presented in a shorten version (par. 0394) reads on the claimed feature of “when the subscriber fast forwards or skips one or more of the targeted advertisement, each targeted advertisement that is fast-forwarded or skipped is presented in a compressed time period. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks to use the teaching as taught by Maissel in order to prevent user to avoid watching advertisement thereby improve efficiency in advertising.

Regarding claim 204, Maissel further discloses that during fast-forward and fast backward through the commercial, a shortened version is displayed (par. 0394). Therefore, the presenting of shortened version when fast-forward full commercial broadly reads on the claimed limitation of “presenting an alternative advertisement in conjunction with each targeted advertisement that is fast forwarded”

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Regarding claim 205, Maissel further discloses the shorten version of full commercial is presented when the commercial is fast-forwarded (par. 0394) reads on the claimed feature of the alternative amendment is presented such that at least a portion of each targeted advertisement that is fast forwarded remains visible to the subscriber.

Regarding claims 206,208-212, the additional limitations as claimed respectively correspond to the additional limitations as claimed in claims 195,198,201-202,199-200, and are analyzed as discussed with respect to the rejections of claims 195,198,201-202,199-200.

5. Claims 197 and 207 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US 6,463,585) in view of Maissel et al. (US 2003/0088872) as respectively applied to claims 194, 204 above, and further in view of Chang et al. (US 2002/0129362).

Regarding claim 197, Hendricks in view of Maissel teaches a method as discussed in the rejection of claim 194. However, neither Hendricks nor Maissel specifically disclose alternative advertisement is superimposed over the targeted advertisement.

Chang discloses alternative commercials 604,606 superimposed in smaller windows with the main commercial (par. 0057, figure 6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks

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and Maissel to use the teaching as taught by Chang in order to simultaneously displays alternative commercials with the main commercial (par. 0058), thereby enhance advertising efficiency.

Regarding claim 207, the additional limitations as claimed correspond to the additional limitations as claimed in claim 197, and are analyzed as discussed with respect to the rejection of claim 197.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wilkins (US 5,446,919) discloses communication system and method with demographically or psychographically defined audiences.

Nishio (US 6,070,186) discloses video server and video on demand system capable of effectively transmitting a special video program.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 8:30-6:00.

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8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPH
June 27,2005



CHRIS GRANT
PRIMARY EXAMINER